

By: Nelson

S.B. No. 745

A BILL TO BE ENTITLED

AN ACT

relating to review and verification procedures, and allowing certain claimants to file an application under the Crime Victims' Compensation Act; and the administration of the Sexual Assault Prevention and Crisis Services Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 56.39(a), Code of Criminal Procedure, is amended to read as follows:

(a) An order for a mental or physical examination or an autopsy as provided by Article 56.38(c)(2) [~~56.38(c)(3)~~] may be made for good cause shown on notice to the individual to be examined and to all persons who have appeared.

SECTION 2. Article 56.61, Code of Criminal Procedure, as amended by Chapters 496 (S.B. 808) and 716 (H.B. 2916), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

Art. 56.61. COMPENSATION FOR CERTAIN CRIMINALLY INJURIOUS CONDUCT PROHIBITED; EXCEPTION. (a) Except as provided by Subsection (b), the attorney general may not award compensation for pecuniary loss arising from criminally injurious conduct that occurred before January 1, 1980.

(b) The attorney general may award compensation for pecuniary loss arising from criminally injurious conduct that occurred before January 1, 1980, if:

1           (1) the conduct was in violation of Chapter 19, Penal  
2 Code;

3           (2) the identity of the victim is established by a law  
4 enforcement agency on or after January 1, 2009[, ~~and the pecuniary~~  
5 ~~loss was incurred with respect to the victim's funeral or burial on~~  
6 ~~or after that date~~]; and

7           (3) the claimant files the application for  
8 compensation within the limitations period provided by Article  
9 56.37(e).

10          SECTION 3. The change in law made by Section 2 applies only  
11 to criminally injurious conduct committed against a victim whose  
12 identity is established by a law enforcement agency on or after  
13 January 1, 2009. Criminally injurious conduct committed against a  
14 victim whose identity is established by a law enforcement agency  
15 before January 1, 2009, is governed by the law in effect on the date  
16 the victim's identity was established, and the former law is  
17 continued in effect for that purpose.

18          SECTION 4. Chapter 420, Government Code, is amended to read  
19 as follows:

20          Sec. 420.003. DEFINITIONS. In this chapter:

21           (1) "Accredited crime laboratory" means a crime  
22 laboratory, as that term is defined by Article 38.35, Code of  
23 Criminal Procedure, that has been accredited under Section  
24 411.0205.

25           (2) ~~1-a~~ "Active criminal case" means a case:

26                   (A) in which:

27                           (i) a sexual assault has been reported to a

1 law enforcement agency; and

2 (ii) physical evidence of the assault has  
3 been submitted to the agency or an accredited crime laboratory  
4 under this chapter for analysis; and

5 (B) for which:

6 (i) the statute of limitations has not run  
7 with respect to the prosecution of the sexual assault; or

8 (ii) a DNA profile was obtained that is  
9 eligible under Section 420.043 for comparison with DNA profiles in  
10 the state database or CODIS DNA database.

11 ~~(31-b)~~ "Advocate" means a person who provides advocacy  
12 services as an employee or volunteer of a sexual assault program.

13 ~~(41-e)~~ "Department" means the Department of Public  
14 Safety of the State of Texas.

15 ~~(51-d)~~ "Law enforcement agency" means a state or local  
16 law enforcement agency in this state with jurisdiction over the  
17 investigation of a sexual assault.

18 ~~(26) "Program" means a sexual assault program~~ "Minimum  
19 services" means the following services to address sexual assault:

20 (A) a 24-hour crisis hotline;

21 (B) crisis intervention;

22 (C) public education;

23 (D) advocacy; and

24 (E) accompaniment to hospitals, law enforcement  
25 offices, prosecutors' offices, and courts.

26 ~~(3) "Service" means the Sexual Assault Prevention and~~  
27 ~~Crisis Service.~~

(47) "Sexual assault" means any act or attempted act as described by Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code.

(58) "Sexual assault examiner" means a person who uses an attorney general-service-approved evidence collection kit and protocol to collect and preserve evidence of a sexual assault or other sex offense.

(69) "Sexual assault nurse examiner" means a registered nurse who has completed an attorney general-service-approved examiner training course described by Section 420.011 and who is certified according to minimum standards prescribed by attorney general rule.

(710) "Sexual assault program" means any local public or private nonprofit corporation, independent of a law enforcement agency or prosecutor's office, that is operated as an independent program or as part of a municipal, county, or state agency and that provides the minimum services established by this chapter.

(11) "State sexual assault coalition" means an organization that has been identified as the state sexual assault coalition by a state or federal agency authorized to make the designation.

(812) "Survivor" means an individual who is a victim of a sexual assault, regardless of whether a report or conviction is made in the incident.

Sec. 420.004. ~~SERVICE~~ SEXUAL ASSAULT PREVENTION AND CRISIS SERVICES PROGRAM AND RULES. (a) The attorney general administers the Sexual Assault Prevention and Crisis Services ~~is a division in~~

~~the office of the attorney general~~ Program and may delegate a power,  
duty, or responsibility given to the attorney general under this  
chapter to a person in the attorney general's office.

(b) The attorney general may adopt rules necessary to  
implement ~~relating to assigning service areas, monitoring~~  
~~services, distributing funds, and collecting information from~~  
~~programs in accordance with this chapter.~~

(c) A proposed rule regarding attorney general grant  
funding under this chapter must be provided to grant recipients at  
least 60 days before the date of adoption.

Sec. 420.005. GRANTS. (a) The attorney general may award  
grants to sexual assault programs; state sexual assault coalitions;  
statewide programs; or organizations for the purposes of conducting  
activities described by 420.008. Grants may be awarded in order to:  
~~programs described by Section 420.008. A grant may not result in~~  
~~the reduction of the financial support a program receives from~~  
~~another source.~~

(1) provide services for survivors of sexual assault;  
(2) promote development of sexual assault programs or  
to standardize the quality of services for survivors of sexual  
assault;

(3) prevent sexual violence; or

(4) conduct activities described by Section 420.008.

(b) The attorney general may by rule determine eligibility  
requirements for any grant provided under this chapter. The  
attorney general may require grant recipients to offer the minimum  
services for at least nine months before receiving a grant. ~~require~~

1 ~~that to be eligible for a grant, certain programs must provide at a~~  
2 ~~minimum:~~

- 3 ~~(1) a 24-hour crisis hotline,~~
- 4 ~~(2) crisis intervention,~~
- 5 ~~(3) public education,~~
- 6 ~~(4) advocacy and accompaniment to hospitals, law~~  
7 ~~enforcement offices, prosecutors' offices, and courts for~~  
8 ~~survivors and their family members, and~~
- 9 ~~(5) crisis intervention volunteer training.~~

10 (c) The attorney general by rule ~~shall~~may require ~~a program~~  
11 ~~receiving a~~ grant recipients under this chapter to submit financial  
12 and programmatic reports. The attorney general may also require  
13 grant recipients to continue to offer the minimum services during  
14 the grant period. ~~grant to:~~

- 15 ~~(1) submit quarterly and annual financial reports to~~  
16 ~~the attorney general,~~
- 17 ~~(2) submit to an annual independent financial audit,~~
- 18 ~~(3) cooperate with the attorney general during~~  
19 ~~site-monitoring visits, and~~
- 20 ~~(4) offer the minimum services described by Subsection~~  
21 ~~(b) for at least nine months before receiving a grant.~~

22 (d) This section does not prohibit ~~a program~~ grant  
23 recipients from offering any additional service, including a  
24 service for sexual assault offenders.

25 (e) A grant is governed by Chapter 783 and rules adopted  
26 under that chapter.

27 ~~(f) The receipt of grant money by a program may be suspended~~

~~in case of a dispute about the eligibility of the program to receive the money under this chapter. A hearing on the dispute must be held within a reasonable time, as established by rule by the attorney general.~~

Sec. 420.006. SPECIAL PROJECTS. The attorney general may consult and contract with or award grants to ~~local~~ sexual assault programs, state sexual assault coalitions, and statewide programs for special projects to prevent sexual assault and improve services to survivors.

Sec. 420.007. FUNDING. (a) The attorney general may receive grants, gifts, or appropriations of money from the federal government, the state legislature, or private sources to finance the grant program created by this chapter.

(b) The attorney general may not use more than 15 percent of the annual legislative appropriation to the ~~service~~ attorney general for the administration of this chapter.

(c) The sexual assault prevention and crisis services fund is a special account in the general revenue fund. Money deposited to the credit of the fund may be used only as provided by this subchapter and is not available for any other purpose.

Sec. 420.009. REPORT. The attorney general shall publish a report ~~on the service~~ not later than December 10 of each even-numbered year. The report must summarize reports from ~~programs receiving grants from the attorney general~~ grant recipients under this chapter, analyze the effectiveness of the grants, and include information on the expenditure of funds authorized by this chapter, the services provided, the number of

1 persons receiving services, and any other information relating to  
2 the provision of sexual assault services. A copy of the report  
3 shall be submitted to the governor, lieutenant governor, speaker of  
4 the house of representatives, Legislative Budget Board, Senate  
5 Committee on Health and Human Services or its successor committee,  
6 and House Committee on Human Services or its successor committee.

7       Sec. 420.010. CONFIDENTIALITY. The attorney general may  
8 not disclose any information received from reports, collected case  
9 information, or site-monitoring visits that would identify a person  
10 working at or receiving services from a sexual assault program.

11       Sec. 420.011. ATTORNEY GENERAL CERTIFICATIONS AND RULES.

12 (a) The attorney general may adopt rules necessary to implement  
13 this ~~chapter section~~. ~~A proposed rule must be provided to programs~~  
14 ~~receiving grants at least 60 days before the date of adoption.~~

15 (b) The attorney general shall adopt rules establishing  
16 minimum standards for the certification of a sexual assault  
17 training program and the renewal of that certification ~~by the~~  
18 ~~program~~. The certification is valid for two years from the date of  
19 issuance. The attorney general shall also adopt rules establishing  
20 minimum standards for the suspension, decertification, or  
21 probation of a sexual assault training program that violates this  
22 chapter.

23 (c) The attorney general shall adopt rules establishing  
24 minimum standards for the certification of a sexual assault nurse  
25 examiner and the renewal of that certification ~~by the nurse~~  
26 ~~examiner~~, including standards for examiner training courses and for  
27 the interstate reciprocity of sexual assault nurse examiners. The



certification is valid for two years from the date of issuance. The attorney general shall also adopt rules establishing minimum standards for the suspension, decertification, or probation of a sexual assault nurse examiner who violates this chapter.

SUBCHAPTER B. COLLECTION AND PRESERVATION OF EVIDENCE OF SEX  
OFFENSE

Sec. 420.031. EVIDENCE COLLECTION PROTOCOL; KITS. (a) The ~~service~~attorney general shall develop and distribute to law enforcement agencies and proper medical personnel an evidence collection protocol that shall include collection procedures and a list of requirements for the contents of an evidence collection kit for use in the collection and preservation of evidence of a sexual assault or other sex offense. Medical or law enforcement personnel collecting evidence of a sexual assault or other sex offense shall use an ~~service~~attorney general-approved evidence collection kit and protocol.

(b) An evidence collection kit must contain the following items:

(1) items to collect and preserve evidence of a sexual assault or other sex offense; and

(2) any other items ~~recommended by the Evidence Collection Protocol Advisory Committee of the attorney general and~~ determined necessary for the kit by the attorney general.

(c) In developing the evidence collection kit and ~~protocol procedures and requirements~~, the ~~service~~attorney general shall consult with individuals and organizations having knowledge

and experience in the issues of sexual assault and other sex offenses.

(d) A law enforcement agency that requests a medical examination of a victim of an alleged sexual assault or other sex offense for use in the investigation or prosecution of the offense shall pay the costs of the evidence collection kit. This subsection does not require a law enforcement agency to pay any costs of treatment for injuries.

(e) Evidence collected under this section may not be released unless a signed, written consent to release the evidence is obtained as provided by Section 420.0735.

(f) Failure to comply with evidence collection procedures or requirements adopted under this section does not affect the admissibility of the evidence in a trial of the offense.

#### SUBCHAPTER C. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT

##### Sec. 420.051. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT.

An individual may act as an advocate for survivors of sexual assault for the purposes of providing services under the Code of Criminal Procedure Article 56.045, if the individual has completed a sexual assault training program certified by the ~~department~~ attorney general and is employed by or a volunteer of a sexual assault program.

~~(1) is employed by a sexual assault program; or~~

~~(2) provides services through a sexual assault program~~

~~as a volunteer under the supervision of an advocate.~~

SECTION 5. This Act takes effect September 1, 2013.